

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-0187-MWD-E **TCEQ ID:** RN102178233 **CASE NO.:** 32578**RESPONDENT NAME:** City of Commerce

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Commerce, approximately 0.5 mile south of Charity Road and Farm-to-Market ("FM") Road 3218 on the east side of FM 3218 which includes a collection line located 300 yards north of Loop 178 behind Texas A & M University Sports Complex, Hunt County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 1, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Laurie Eaves, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4495; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Bill Shipp, City Manager, City of Commerce, 1119 Alamo Street, Commerce, Texas 75428 Respondent's Attorney: Mr. Brad B. Castleberry, Lloyd Gosselink Blevins Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701-2478</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 21, 2006</p> <p>Date of NOE Relating to this Case: January 18, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of sewage [TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0010555001, Permit Conditions No. 2(g)].</p>	<p>Total Assessed: \$7,450</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,450</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification:</p> <p>This is a Findings Orders because environmental receptors have been exposed to pollutants which exceeded levels that were protective.</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent immediately took steps to clear the blockage, pump sewage to the sewer main, aerate the pond, dispose of solids/fish/debris, and disinfect the site by applying lime. The final step of applying fresh top soil to the affected areas was accomplished on December 15, 2006.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

Attachment A
Docket Number: 2007-0187-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Commerce
Penalty Amount: Seven Thousand Four Hundred Fifty Dollars (\$7,450)
SEP Offset Amount: Seven Thousand Four Hundred Fifty Dollars (\$7,450)
Type of SEP: Custom with Pre-Approved Concept
Location of SEP: Hunt

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall establish a citizen scrap tire disposal and processing facility where citizens may dispose of used tires and shall hold a one-day county-wide used tire collection event at no cost to the residents. The Respondent shall offer a drop off site on City property where it will collect, dismount, cut, and properly dispose of tires dropped off by citizens from any portion of Hunt County. The Respondent shall advertise the event in a newspaper to ensure public participation. SEP funds will be used for heavy equipment such as use of a dump truck, box blade tractor, for purchase of a Model 9100 Tire Cutter (estimated costs of \$4,900), a Model 4501 Tire Changer (estimated cost of \$3,549), and other direct costs of performance such as fuel and disposal costs. The Respondent agrees to continue to use the tire cutter and changer for performing tire disposal operations for at least three years from the date of the Agreed Order.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The improper disposal of scrap tires is a significant environmental problem. In addition to creating blight conditions, tires accumulate stagnant water and become a breeding ground for mosquitoes. Mosquitoes are potential vectors for disease, including West Nile Virus. Additionally, used tires present a significant fire hazard. Tire fires burn very hot and are extremely difficult to extinguish. The tires often melt into an oily

substance in the extreme heat of a fire and can cause a harmful run-off when combined with the water used to put out the fire.

This SEP will provide a discernible environmental benefit by providing citizens a no cost option to dispose of used tires. There are no facilities of this type in the area. The acquisition of the tire cutter will help eliminate illegal dumping of tires in commercial dumpsters and on public and private properties.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. The Respondent estimates that it will spend approximately \$2,000 more than the Offset amount to perform the collection event and purchase the equipment.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall purchase the equipment within 90 days after the effective date of this Order; and shall complete a collection event within one year of the effective date of this Order. The Respondent shall continue to operate the tire disposal and processing facility using the equipment purchased with SEP funds for a minimum of three years from the effective date of this Order.

3. Reporting

A. Initial Report

Within 180 days after the effective date of this Agreed Order, the Respondent shall submit a progress report to document the total amount of costs incurred for the purchase of the tire cutter.

B. Final Report

Within three years after the effective date of this Order, the Respondent shall submit a final report to the TCEQ that includes:

1. A statement of quantifiable environmental benefits;
2. Amount of tires collected, processed, and properly disposed;
3. Photographs of the tires collected;
4. Equipment logs showing the hours the tire cutter was utilized on the project;
5. Manifests for proper disposal of the tires; and
6. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

All SEP reports and any requested additional information shall be submitted to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP monies. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP monies.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, with the payment the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision January 9, 2007

DATES	Assigned	22-Jan-2007	Screening	30-Jan-2007	EPA Due	
	PCW	21-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Commerce
Reg. Ent. Ref. No.	RN102178233
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32578	No. of Violations	1	
Docket No.	2007-0187-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Laurie Eaves	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	74% Enhancement	Subtotals 2, 3, & 7	\$3,700
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Notes: The Respondent self-reported five months of effluent quality violations, was issued one Agreed Order containing denial of liability language, and was issued ten NOV's (three for same/similar violations and seven not same or similar).

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$1,250
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	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent immediately took steps to clear the blockage, pump sewage to the sewer main, aerate the pond, dispose of solids/fish/debris, and disinfect the site by applying lime. The final step of applying fresh top soil to the affected areas was accomplished on December 15, 2006.

0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$41
Approx. Cost of Compliance \$11,031
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,450
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$7,450
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,450
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$7,450
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Screening Date 30-Jan-2007

Docket No. 2007-0187-MWD-E

PCW

Respondent City of Commerce

Policy Revision 2 (September 2002)

Case ID No. 32578

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102178233

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	8	40%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 74%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent self-reported five months of effluent quality violations, was issued one Agreed Order containing denial of liability language, and was issued ten NOVs (three for same/similar violations and seven not same or similar).

Total Adjustment Percentage (Subtotals 2, 3, & 7) 74%

Screening Date 30-Jan-2007

Docket No. 2007-0187-MWD-E

PCW

Respondent City of Commerce

Policy Revision 2 (September 2002)

Case ID No. 32578

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102178233

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a) and TPDES Permit No. WQ0010555001, Permit Conditions No. 2(g)

Violation Description

Failed to prevent the unauthorized discharge of approximately 95,123 gallons of sewage from a blocked sewer line 300 yards north of Loop 178 behind the Texas A & M University Sports Complex on November 18, 2006. The discharge flowed to an irrigation pond on university property and resulted in a fish kill of approximately 1,000 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

The environment was exposed to pollutants which exceeded protective levels.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

27 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

One monthly event is recommended from the investigation date of November 21, 2006 through the date of compliance on December 15, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$41

Violation Final Penalty Total \$7,450

This violation Final Assessed Penalty (adjusted for limits) \$7,450

Economic Benefit Worksheet

Respondent: City of Commerce
Case ID No.: 32578
Reg. Ent. Reference No.: RN102178233
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$11,031	18-Nov-2006	15-Dec-2006	0.1	\$41	n/a	\$41
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Approximate cost associated with clearing the blockage, pumping sewage to the sewer main, aerating the pond, disposing of solids/fish/debris, disinfecting the site by applying lime, and applying fresh top soil to the affected areas. Date Required is the date the discharge started. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$11,031

TOTAL

\$41

Compliance History

Customer/Respondent/Owner-Operator: CN600729933 City of Commerce Classification: AVERAGE Rating: 2.76
Regulated Entity: RN102178233 CITY OF COMMERCE Classification: AVERAGE Site Rating: 1.28
ID Number(s): WASTEWATER PERMIT WQ0010555001
WASTEWATER PERMIT TPDES0020591
WASTEWATER PERMIT TX0020591
WASTEWATER LICENSING LICENSE WQ0010555001
Location: approximately 0.5 mile south of Charity Road and Farm-to-Market ("FM")
Road 3218 on the east side of FM 3218, Hunt County
(300 yards north of Loop 178 behind the Texas A & M University Sports Complex)
TCEQ Region: REGION 04 - DFW METROPLEX Rating Date: September 01 06 Repeat Violator: NO
Date Compliance History Prepared: January 30, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 1, 2002 to February 1, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Laurie Eaves Phone: 512/239-4495

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 09/21/2006 ADMINORDER 2006-0298-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results for the pH daily maximum.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 11/18/2002 (163033)

2 02/14/2003 (246624)

3 12/16/2002 (163037)

4 01/13/2005 (382267)

5 01/16/2003 (163041)

6 05/22/2006 (498660)

7 06/16/2006 (498661)

8 08/18/2005 (441228)

9 08/16/2005 (441229)
10 09/26/2005 (441230)
11 09/19/2005 (441231)
12 09/19/2005 (441232)
13 04/12/2004 (332798)
14 08/21/2002 (5745)
15 02/22/2006 (469121)
16 02/23/2004 (297375)
17 03/29/2004 (297377)
18 05/11/2004 (297378)
19 06/01/2004 (297380)
20 03/20/2006 (469122)
21 03/14/2006 (456187)
22 05/11/2004 (297383)
23 02/25/2002 (162999)
24 04/17/2006 (469123)
25 02/13/2003 (163000)
26 09/25/2003 (297386)
27 10/24/2003 (297388)
28 03/15/2002 (163002)
29 12/01/2003 (297389)
30 03/18/2003 (163003)
31 04/17/2006 (469124)
32 02/20/2004 (297390)
33 05/05/2004 (297391)
34 11/28/2005 (469125)
35 07/07/2004 (352957)
36 06/24/2004 (264167)
37 08/19/2004 (352958)
38 04/22/2002 (163007)
39 09/21/2004 (352959)
40 12/27/2005 (469126)
41 10/25/2004 (352960)
42 08/16/2006 (463027)
43 04/11/2003 (163008)
44 11/08/2002 (246632)
45 11/18/2004 (352961)
46 05/20/2002 (163010)
47 05/23/2003 (163011)
48 05/31/2006 (480782)
49 06/18/2002 (163014)
50 06/23/2003 (163015)
51 07/17/2002 (163018)
52 05/25/2006 (462957)
53 07/16/2003 (163019)
54 01/16/2007 (536647)
55 08/05/2002 (246628)
56 08/22/2002 (163022)
57 05/21/2003 (13776)
58 07/16/2003 (163023)
59 09/23/2002 (163026)
60 12/18/2006 (533752)
61 03/22/2005 (420121)
62 12/16/2003 (257580)
63 04/14/2005 (420122)
64 05/13/2005 (420123)
65 06/20/2005 (420124)
66 10/18/2002 (163029)
67 09/25/2006 (520656)
68 10/17/2006 (520657)
69 05/15/2003 (246626)
70 09/07/2004 (290089)
71 02/14/2005 (382265)
72 12/16/2004 (382266)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/14/2003 (246624)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/07/2002 (5745)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to comply with the effluent permit limits.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to adequately calculate loading calculations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]

30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to adequately analyze for effluent chlorine residual.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)[G]
Description: Failure to keep monthly records of the amount of sludge that was sent to the lagoons.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)[G]
Description: Failure to maintain secondary clarifier No. 2.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(l)[G]
Description: Failure to maintain sand filters.

Date: 12/31/2004 (382267)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/13/2006 (533752)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to conduct the annual sludge analyses.
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121(a)(1)
Rqmt Prov: PERMIT IA
Description: Failure to prevent an unauthorized discharge, mitigate the affected area, and properly dispose of sludge.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to provide noncompliance notification as required.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
Description: Failure to accurately calculate and report annual average flow.

Date: 12/12/2003 (257580)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.3(a)
Description: Failure to secure lift stations (LS).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to provide an adequate backflow prevention device at the plant's potable water service lines.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.9(c)
Rqmt Prov: PERMIT IA
Description: Failure to document quality assurance/quality control (QA/QC) for TCR analyses.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
Rqmt Prov: PERMIT IA
Description: Failure to document compliance with field parameter holding times.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT IA
Description: Failure to properly maintain facilities and treatment systems.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to submit the 2003 annual sludge report by September 1, 2003.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to obtain authorization to store digested sludge in the sludge lagoons for a period not to exceed two years.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to submit a closure plan for the sludge lagoon(s).

Date: 04/12/2004 (332798)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 04/30/2004 (297380)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/24/2006 (462957)
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to obtain authorization to store digested sludge in the sludge lagoons for a period not to exceed two years.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to conduct the annual sludge analyses.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(b)(4)
Description: Failure to properly dispose of screenings and grit.
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121(a)(1)
Rqmt Prov: PERMIT IA
Description: Failure to prevent an unauthorized discharge, mitigate the affected area, and properly dispose of sludge.
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to provide noncompliance notification as required.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT IA
Description: Failure to properly maintain facilities and treatment systems.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
Description: Failure to accurately calculate and report annual average flow.
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Rqmt Prov: PERMIT IA
Description: Failure to prevent any discharge which has reasonable likelihood of adversely affecting human health or the environment.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter C 319.302(b)(3)
Description: Failure to provide public notification, within 24 hours, of an unauthorized discharge greater than 0.1 MGD.

Date: 08/31/2005 (441230)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/08/2002 (246632)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 09/30/2005 (441231)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/18/2004 (290089)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to provide an adequate backflow prevention device at the plant's potable water service lines.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.9(c)
Rqmt Prov: PERMIT IA
Description: Failure to document quality assurance/quality control (QA/QC) for TCR analyses.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT IA
Description: Failure to properly maintain facilities and treatment systems.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description: Failure to obtain authorization to store digested sludge in the sludge lagoons for a period not to exceed two years.

Date: 08/05/2002 (246628)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/15/2003 (246626)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/31/2005 (420124)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING THE
CITY OF COMMERCE
RN102178233

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0187-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Commerce ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City, represented by Brad B. Castleberry of the law firm of Lloyd Gosselink Blevins Rochelle & Townsend, P.C., presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment facility located approximately 0.5 mile south of Charity Road and Farm-to-Market ("FM") Road 3218 on the east side of FM 3218 which includes a collection line located 300 yards north of Loop 178 behind the Texas A & M University Sports Complex, Hunt County, Texas (the "Site").

2. The City has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on November 21, 2006, TCEQ staff documented an unauthorized discharge of approximately 95,123 gallons of sewage from a blocked sewer line 300 yards north of Loop 178 behind the Texas A & M University Sports Complex on November 18, 2006. The discharge flowed to an irrigation pond on university property and resulted in a fish kill of approximately 1,000 fish.
4. The City received notice of the violation on January 23, 2007.
5. The Executive Director recognizes that the City immediately took steps to clear the blockage, pump sewage to the sewer main, aerate the pond, dispose of solids/fish/debris, and disinfect the site by applying lime. The final step of applying fresh top soil to the affected areas was accomplished on December 15, 2006.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to prevent the unauthorized discharge of sewage, in violation of TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System Permit No. WQ0010555001, Permit Conditions No. 2(g).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Seven Thousand Four Hundred Fifty Dollars (\$7,450) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Seven Thousand Four Hundred Fifty Dollars (\$7,450) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Seven Thousand Four Hundred Fifty Dollars (\$7,450) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Commerce, Docket No. 2007-0187-MWD-E" to:

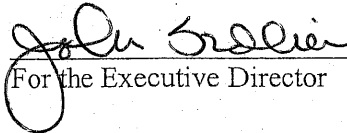
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 4, Seven Thousand Four Hundred Fifty Dollars (\$7,450) of the assessed administrative penalty shall be offset with the condition that the City implements the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/20/07
Date

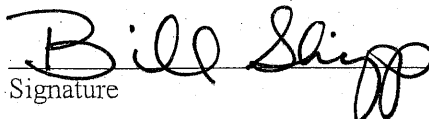
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Commerce. I am authorized to agree to the attached Agreed Order on behalf of the City of Commerce, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Commerce waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

4-20-07
Date

BILL SHIPP

Name (Printed or typed)
Authorized Representative of the
City of Commerce

CITY MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

The figure consists of two separate line graphs. The left graph plots 'Rate of reaction' on the y-axis against 'Temperature (°C)' on the x-axis. The x-axis has markings for 10, 20, 30, and 40. The curve starts at a low rate at 10°C, rises to a peak at 30°C, and then begins to decline at 40°C. The right graph also plots 'Rate of reaction' on the y-axis against 'Temperature (°C)' on the x-axis. The x-axis has markings for 10, 20, 30, and 40. This curve shows a continuous, steep upward trend, starting from a low rate at 10°C and reaching its highest point at 40°C.

Approved: _____

7-12-2019

1911

Attachment A
Docket Number: 2007-0187-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Commerce
Penalty Amount: Seven Thousand Four Hundred Fifty Dollars (\$7,450)
SEP Offset Amount: Seven Thousand Four Hundred Fifty Dollars (\$7,450)
Type of SEP: Custom with Pre-Approved Concept
Location of SEP: Hunt

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall establish a citizen scrap tire disposal and processing facility where citizens may dispose of used tires and shall hold a one-day county-wide used tire collection event at no cost to the residents. The Respondent shall offer a drop off site on City property where it will collect, dismount, cut, and properly dispose of tires dropped off by citizens from any portion of Hunt County. The Respondent shall advertise the event in a newspaper to ensure public participation. SEP funds will be used for heavy equipment such as use of a dump truck, box blade tractor, for purchase of a Model 9100 Tire Cutter (estimated costs of \$4,900), a Model 4501 Tire Changer (estimated cost of \$3,549), and other direct costs of performance such as fuel and disposal costs. The Respondent agrees to continue to use the tire cutter and changer for performing tire disposal operations for at least three years from the date of the Agreed Order.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The improper disposal of scrap tires is a significant environmental problem. In addition to creating blight conditions, tires accumulate stagnant water and become a breeding ground for mosquitoes. Mosquitoes are potential vectors for disease, including West Nile Virus. Additionally, used tires present a significant fire hazard. Tire fires burn very hot and are extremely difficult to extinguish. The tires often melt into an oily

substance in the extreme heat of a fire and can cause a harmful run-off when combined with the water used to put out the fire.

This SEP will provide a discernible environmental benefit by providing citizens a no cost option to dispose of used tires. There are no facilities of this type in the area. The acquisition of the tire cutter will help eliminate illegal dumping of tires in commercial dumpsters and on public and private properties.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. The Respondent estimates that it will spend approximately \$2,000 more than the Offset amount to perform the collection event and purchase the equipment.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall purchase the equipment within 90 days after the effective date of this Order; and shall complete a collection event within one year of the effective date of this Order. The Respondent shall continue to operate the tire disposal and processing facility using the equipment purchased with SEP funds for a minimum of three years from the effective date of this Order.

3. Reporting

A. Initial Report

Within 180 days after the effective date of this Agreed Order, the Respondent shall submit a progress report to document the total amount of costs incurred for the purchase of the tire cutter.

B. Final Report

Within three years after the effective date of this Order, the Respondent shall submit a final report to the TCEQ that includes:

1. A statement of quantifiable environmental benefits;
2. Amount of tires collected, processed, and properly disposed;
3. Photographs of the tires collected;
4. Equipment logs showing the hours the tire cutter was utilized on the project;
5. Manifests for proper disposal of the tires; and
6. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

All SEP reports and any requested additional information shall be submitted to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP monies. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP monies.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, with the payment the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

